

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

.

**PETER A. SPALLUTO and
ACCESS WITH SUCCESS, INC.,**

Plaintiffs,

v.

**KSA REALTY TRUST, RICHARD L.
FRIEDMAN, JOHN HALL II, PETER
DIANA and GARY GIANINO,
TRUSTEES,**

Defendants.

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. **CIVIL ACTION NO. 04-10249-WGY**
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**ASSENTED TO MOTION FOR FIFTH EXTENSION OF
TIME TO ANSWER OR RESPOND TO COMPLAINT**

Defendants KSA Realty Trust, Richard L. Friedman, John Hall II, Peter Diana and Gary Gianino, Trustees (“Defendants” or “KSA”), hereby move this Court for an additional extension up to and including until August 3, 2004 to answer the complaint of plaintiffs Peter A. Spalluto (“Spalluto”) and Access with Success, Inc. (“AWS”).

Plaintiffs have assented to this motion. In support of their motion, Defendants state as follows:

1. Defendants are the owners and operators of The Charles Hotel in Cambridge. Defendants are engaged in discussions with Plaintiffs to resolve the issues raised in the Complaint. The experts of the parties have requested additional time to make recommendations that may form the basis of a settlement.

2. Plaintiffs are not prejudiced by the delay, as their own expert has requested the courtesy of additional time. Defendants would be prejudiced by the

preparation and filing of responsive pleadings that may not be necessary in light of the desire to settle the dispute without the expenditure of additional professional fees. By granting the requested extension , the parties can concentrate on resolving the dispute without spending unnecessary time and money on the litigation.

3. Plaintiffs have assented to this motion.

WHEREFORE, Defendants respectfully request that this Court grant them an additional extension up to and including until August 3, 2004 file an answer or otherwise respond to the complaint.

Respectfully submitted,
KSA REALTY TRUST, RICHARD L.
FRIEDMAN, JOHN HALL II, PETER
DIANA and GARY GIANINO, TRUSTEES,
By their attorneys,

/s/ Joseph P. Davis III
Joseph P. Davis III (BBO #551111)
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DATED: July 23, 2004

ASSENTED TO BY PLAINTIFFS' COUNSEL,

/s/ Nicholas S. Guerrera
Nicholas S. Guerrera (BBO #551475)
SHAHEEN GUERRARA & O'LEARY LLC
Jefferson Office Park
820A Turnpike Street
North Andover, MA 01845
(978) 689-0800

CERTIFICATE OF SERVICE

I, Joseph P. Davis III, Esq., counsel for defendants, hereby certify that a true and correct copy of the foregoing was served by facsimile and first-class mail, postage prepaid, on plaintiffs' counsel this 15th day of June 2004.

/s/ Joseph P. Davis III